

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

In re ZETIA (EZETIMIBE) ANTITRUST  
LITIGATION

MDL No. 2:18-md-2836

THIS DOCUMENT RELATES TO:  
All Direct Purchaser Actions

ORDER

Upon consideration of Plaintiffs' Motion to Compel Production of the 2015 Greenberg Traurig Opinion Letter Glenmark Commissioned Expressly to Assure Potential Investors Regarding Its No-AG Settlement with Merck, (ECF No. 400), it is hereby ORDERED that the motion is GRANTED. For the reasons stated by the court at oral arguments on September 23, 2019, the Opinion Letter, any of its drafts, all related work, communications, and invoices concerning the limited engagement of Richard C. Pettus, Esq., are not privileged and must be produced. See In re Grand Jury Proceedings, 727 F.2d 1352, 1358 (4th Cir. 1984) (privilege did not exist "because confidentiality was not intended," regardless of whether prospectus was actually issued).

Within one (1) week of the entry of this Order, Glenmark shall produce to Plaintiffs a copy of the 2015 Greenberg Traurig Opinion letter as well as all drafts, underlying work, communications, and invoices related in any way to the Opinion Letter and/or Mr.

Pettus' limited engagement to communicate with potential investors in March and April of 2015.

IT IS SO ORDERED.

/s/   
\_\_\_\_\_  
Douglas E. Miller  
United States Magistrate Judge

\_\_\_\_\_  
DOUGLAS E. MILLER  
UNITED STATES MAGISTRATE JUDGE

September 24, 2019